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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 835 U

UNITED STATES OF AMERICA, Plaintiff, v. Ricardo LOPEZ, Defendant.	Magistrate's Case No.: COMPLAINT FOR VIOLATION OF Title 21 U.S.C.§ 841(a)(1) Possession of a controlled Substance with Intent to Distribute

The undersigned complainant duly sworn states:

That on or about April 24, 2008, within the Southern District of California, defendant Ricardo LOPEZ, did knowingly and intentionally possess with intent to distribute approximately 653.77 kilograms (1,441.30 pounds) of marijuana, a Schedule I Controlled Substance, in violation of Title 21 United States Code, Section 841(a)(1).

The complainant states that this complaint is based on the attached Statement of Facts, which is incorporated herein by reference.

Tracy Huxman, Special Agent
Drug Enforcement Administration

Sworn to before me and subscribed in my presence, 24th DAY of APRIL, 2008.

PETER C. LEWIS
UNITED STATES MAGISTRATE JUDGE

UNITED STATES OF AMERICA
v.
Ricardo LOPEZ

STATEMENT OF FACTS

This Statement of Facts is based on the reports, documents, and notes furnished to the Drug Enforcement Administration Special Agents Tracy Huxman and Jeff Butler.

On April 24, 2008, at approximately 1:30 AM, United States Border Patrol Agent (USBPA) Recinos was performing his official duties at the Highway 86 Checkpoint, near Westmorland, California. At that time, a 2003 orange Freightliner Tractor approached the inspection area. USBPA Recinos asked the driver, who was later identified as Ricardo LOPEZ, his citizenship. During this interview, USBPA Recinos observed that LOPEZ was answering the questions nervously and was avoiding eye contact with him. USBPA Recinos then asked LOPEZ what he was carrying in the semi-trailer. LOPEZ told USBPA Recinos he was carrying a rejected load from Yuma, Arizona to Fontana, California. LOPEZ also told USBPA Recinos that he resides in Fontana, California.

USBPA Recinos asked LOPEZ if he had a manifest for the load and if the trailer was sealed. LOPEZ informed USBPA Recinos that he did not have a manifest and that the trailer was not sealed. USBPA Recinos then obtained consent from LOPEZ to look inside the trailer. LOPEZ was sent to secondary inspection for further interview and inspection.

While in secondary inspection, USBPA's Avitia and Garcia met LOPEZ at the rear of the trailer and identified themselves as Border Patrol Agents. As LOPEZ was walking to the rear of the trailer he was on his cellular telephone. USBPA Garcia asked LOPEZ to hang up the telephone so that he could conduct the investigation.

While at the back of the trailer, USBPA Garcia smelled an overwhelming odor of laundry detergent. USBPA Garcia asked LOPEZ what was inside the trailer. LOPEZ told USBPA Garcia that he had water bottles in the trailer. LOPEZ said that he had taken the trailer loaded with Arrowhead Water to Yuma, Arizona, a couple of days ago and that some of the pallets tiled and spilled. Because of this, they rejected the load. USBPA Garcia observed a green seal #5048521 attached to the trailer door. USBPA Garcia asked LOPEZ for the manifest of the load. LOPEZ provided USBPA Garcia with a manifest dated April 10, 2008. When USBPA Garcia told LOPEZ that the manifest was old, LOPEZ ripped the paper out of USBPA Garcia's hands and walked towards the cab of the truck.

When inside the cab of the truck, USBPA Garcia observed that LOPEZ was extremely nervous. LOPEZ was searching in the door panels, under the bed, inside the glove box and in the overhead compartments of the cab for a manifest or other paperwork. While searching the cab, LOPEZ used the compress air to clean sunflower seeds from the floor. USBPA Garcia asked LOPEZ where he was coming from and where he was going. LOPEZ told USBPA Garcia that he was coming from Yuma, Arizona and driving to Fontana, California. Due to LOPEZ's behavior, USBPA Garcia asked him to step out of the vehicle. USBPA Garcia asked LOPEZ if he could look inside the trailer. LOPEZ gave USBPA Garcia consent to look inside the trailer. In addition, USBPA Garcia informed LOPEZ that he would provide LOPEZ with a CBP seal and a form to prove that United States Border Patrol (USBP) had opened the seal. LOPEZ voluntarily gave USBPA Garcia consent to open the trailer.

USBPA's Avitia and Garcia walked back to the vehicle with LOPEZ. LOPEZ put his hands in his pockets and was looking down at the ground. USBPA Garcia asked LOPEZ what was inside the trailer. LOPEZ did not respond, but continued looking down at the ground. Again USBPA Garcia asked LOPEZ what was inside the trailer. LOPEZ said marijuana. Agents then took LOPEZ inside the checkpoint and placed him in a holding cell.

USBPA Simone utilized his assigned canine who alerted exterior of the trailer and received a positive alert.

USBPA Garcia cut the green seal on the trailer and discovered a large quantity of green cellophane wrapped bundles containing a green leafy substance. USBPA opened one of the bundles and field tested the green leafy substance using a NIK (Narcotic Identification Kit). The green leafy substance tested positive for the properties of marijuana.

USBPA's Walla, Recinos, Simone, and Avitia weighed the sixty (60) packages of suspected marijuana and obtained an approximate weight of 653.77 kilograms (1441.3 pounds).

SA Huxman, as witnessed by SA Butler, advised LOPEZ of his Miranda warnings. LOPEZ stated he understood and agreed to answer questions without the presence of an attorney.

LOPEZ stated he was being paid approximately $14,000 to transport the marijuana from Yuma, Arizona to Ontario, California.